

MINUTE ITEM

This Calendar Item No. 15
was approved as Minute Item
No. 12 by the State Lands
Commission by a vote of 3
0 at its 2/28/83
meeting.

CALENDAR ITEM

15. 4.

2/24/83
G 08-03
BLA 230
J. Ludlow
J. Sekelsky
Saurenman

BOUNDARY LINE AND SETTLEMENT AGREEMENT
BLA 230
MOSS LANDING, CALIFORNIA

PARTIES: Moss Landing Harbor District;
State of California;
Phillip Digirolamo,
dba Moss Landing Fisheries, Inc.

BACKGROUND: By Chapter 1190 of the Statutes of 1947,
as amended by Chapter 131 of the Statutes
of 1967, the Legislature granted in trust
to the Moss Landing Harbor District ("District")
certain salt marsh, tidelands, submerged
lands, swamp lands and overflowed lands,
for harbor purposes.

Following a management practices audit
conducted in 1975 by the State Lands Commission,
a number of difficulties were revealed,
among them being the inability of the District
to collect rent from parties maintaining
improvements on the granted lands. The
District was unable to set and to collect
rents because of the uncertainty of the
location of the boundaries between the
granted sovereign lands and the privately
owned uplands.

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Commission staff, pursuant to the granting statute and in order to define the grant boundaries, has conducted extensive surveying and mapping studies. These studies have revealed complex title issues throughout the grant area. Among those issues was the status of title and location of that portion of the grant boundary in the south harbor area which was the subject of a 1945 agreement ("Sandholdt Agreement") between the District and the Sandholdt family, then owners of the adjacent uplands. The Sandholdt Agreement was executed prior to either a lease or the grant from the State to the District and exceeded the authority subsequently given the District by the Legislature.

Under the Sandholdt Agreement, in exchange for easements to create a new harbor mouth, the District purported to grant to the Sandholdts, and to their successors in interest, a rent-free franchise to use tidelands and submerged lands adjacent to their upland property. There was no time limitation placed upon this franchise, nor did the District retain any authority to disapprove the improvements.

Staff of the Commission and the Attorney General's office assert that the Sandholdt Agreement is invalid in that it exceeded the authority of the District and because it purports to grant unrestricted rights in sovereign lands to private parties. Negotiations between representatives of the State, the District, and Moss Landing Fisheries (one of approximately twelve private parties who claim rights under the Sandholdt Agreement, as successors in interest to the Sandholdt family) have resulted in the proposed settlement described below.

The proposed settlement is the first for this area and has reached this state after a number of years of discussion. The proposed

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settlement should set a pattern for the area with other upland owners agreeing to similar agreements. The representative of Moss Landing Fisheries indicates that several other successors in interest to the Sandholdt family have expressed an interest in settling with the State and the District if this proposed settlement is consummated.

PROPOSED SETTLEMENT AGREEMENT:

The proposed settlement agreement consists of a Boundary Line Agreement between the State, the District and Moss Landing Fisheries; and a Lease from the District to Moss Landing Fisheries. The District and Moss Landing Fisheries have agreed to the terms of the proposed settlement.

The Boundary Line Agreement fixes the boundary between granted sovereign lands and adjacent, privately owned uplands. The Boundary Line Agreement also contains a quitclaim to the State and District by Moss Landing Fisheries of all rights, if any, acquired pursuant to the Sandholdt Agreement.

The proposed 20-year lease from the District to Moss Landing Fisheries would permit use of certain tidelands and submerged lands waterward of the agreed boundary, and adjacent to their upland facilities, for specified improvements. Lessee would not be charged rental for the first ten years of the lease; rental gradually would escalate over the last ten years of the lease to full rental value. Although the State is not a party to the Lease, a finding by the Commission that the Lease is consistent with public trust needs is sought. Copies of the proposed Boundary Line Agreement and Lease have been provided to the Commission and are on file at the offices of the Commission.

CONCLUSION:

There is a genuine and good faith dispute between the State and the District, on one hand, and Moss Landing Fisheries, on the other, as to the location of the boundary

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between their respective parcels, and as to the rights, if any, held by the private party pursuant to the Sandholdt Agreement. Based upon a historical study of the area, the parties have agreed that the proposed boundary line, as set forth in proposed Boundary Line Agreement 230, is in a reasonable location.

Staff believes it is in the best interest of the State to enter into the proposed settlement agreement, pursuant to the provisions of Division 6 of the Public Resources Code, with particular reference to Section 6357, and to define the extent, nature, location, and area of public and private titles and boundary by a compromise settlement in order to avoid the costs and uncertainties of litigation.

AB 884: N/A.

EXHIBITS: A. Site Map.
B. Agreement Map.

IT IS THEREFORE RECOMMENDED THAT THE COMMISSION:

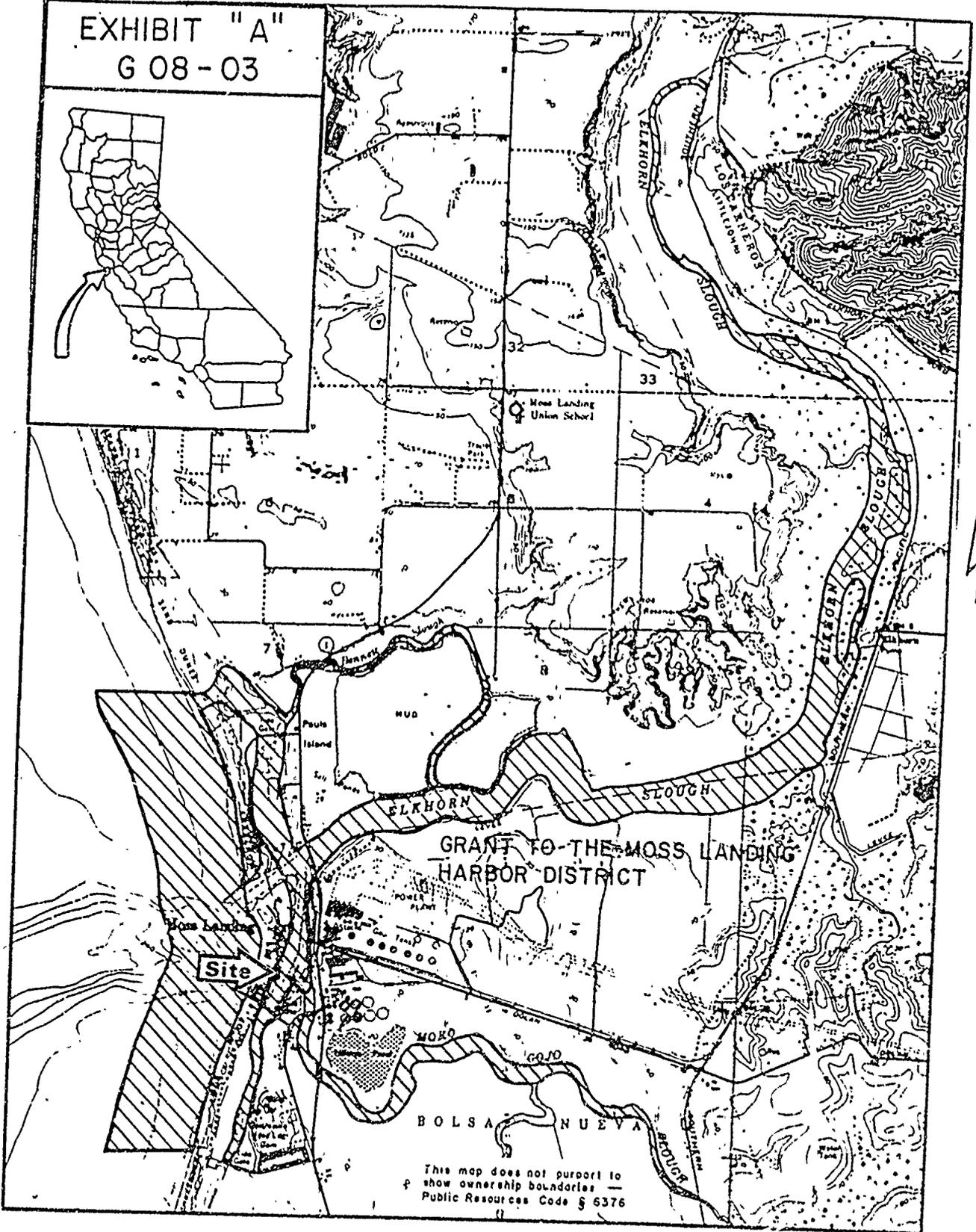
1. FIND THAT THE PROPOSED BOUNDARY LINE AGREEMENT ON FILE IN THE OFFICE OF THE COMMISSION IS IN THE BEST INTERESTS OF THE STATE; AND AUTHORIZE STAFF TO EXECUTE AND RECORD BOUNDARY LINE AGREEMENT NO. 230 PROPOSED HEREIN; AND AUTHORIZE STAFF TO ACCEPT THE CONVEYANCES TO THE STATE AS PROVIDED THEREIN.
2. FIND THAT THE PROPOSED LEASE BETWEEN THE MOSS LANDING HARBOR DISTRICT AND MOSS LANDING FISHERIES IS CONSISTENT WITH PUBLIC TRUST NEEDS AND CHAPTER 1190 OF THE STATUTES OF 1947, AS AMENDED BY CHAPTER 131 OF THE STATUTES OF 1967.
3. FIND THAT THIS ACTION IS EXEMPT FROM CONSIDERATION UNDER CEQA, PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11.
4. FIND THAT THE ACTIVITIES DESCRIBED IN THIS CALENDAR ITEM ARE LOCATED ON LANDS IDENTIFIED AS HAVING SIGNIFICANT ENVIRONMENTAL VALUES AND ARE CONSISTENT WITH THE USE

CLASSIFICATIONS ASSIGNED TO THIS AREA, PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370 ET SEQ., AND CALIFORNIA ADMINISTRATIVE CODE SECTIONS 2951 ET SEQ.

5. AUTHORIZE THE STAFF AND/OR ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, IN ORDER TO IMPLEMENT AND GIVE EFFECT TO THIS AGREEMENT.

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EXHIBIT "A"
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This map does not purport to
show ownership boundaries —
Public Resources Code § 6376

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